

Rajendra D. Badgaiyan, M.D.

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VOLUME I

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EXHIBITS 1 - 10

UNITED STATES DISTRICT COURT

District of Massachusetts

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RAJENDRA BADGAIYAN, M.D.,

Plaintiff

Civil Action

v.

No. 04-12031

ANTHONY J. PRINCIPI, Secretary

Department of Veterans Affairs, et als.,

Defendants  
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DEPOSITION of RAJENDRA D. BADGAIYAN, M.D.

wednesday, May 17, 2006

Morgan, Brown & Joy, LLP

200 State Street

Boston, Massachusetts 02109

10:15 a.m. to 2:59 p.m.

----- CAROL A. CARUSO, CSR -----

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1 University of Pittsburgh, did you say a year?

2 A. Yeah, a little more than a year.

3 Q. And you left to go to where?

4 A. Harvard.

5 Q. So that would be 1998?

6 A. Yes.

7 Q. What was your first position at Harvard?

8 A. Postdoctorate fellow.

9 Q. In what department?

10 A. Psychology.

11 Q. At Harvard Medical School?

12 A. No, Harvard University.

13 Q. What were the, what was the nature of your  
14 fellowship?

15 A. I don't quite understand.

16 Q. What did you do as a postdoctorate fellow,  
17 just take us through the average day?

18 A. Mainly it's research.

19 Q. Do you recall a specific subject of your  
20 research?

21 A. There was memory.

22 Q. Memory?

23 A. Mm-hmm.

24 Q. How long were you a postdoctorate fellow in

1 the Psychology Department in Harvard University  
2 performing this research?

3 A. I don't exactly remember the length of time,  
4 but I started in 1998, and then I, at some point I  
5 was awarded to research associate, and then I kept  
6 working there about until three years ago without an  
7 official position in Psychology Department, so I  
8 don't exactly remember when the official position  
9 ended.

10 Q. At some point you decided you would like to  
11 practice psychiatry, correct?

12 A. Yes, that is correct.

13 Q. And you applied for a residency with the  
14 South Shore Psychiatric Residency Training Program?

15 A. Yes, that is true.

16 Q. And can you tell me when that was?

17 A. Some time in 1998, I guess, yeah.

18 Q. When did you receive, if you did, an  
19 appointment into that program?

20 A. I worked in 1998 there for one month without  
21 being paid and without having an official  
22 appointment, but I got an official appointment to  
23 start the program in, I think on October 19, 1999.

24 Q. And what was the reason for the delay in

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1 to finish my training in October of 2003, that would  
2 have been 48 months, but then I was told to  
3 continue, I was told that I have to be in the  
4 program until December of 2003, so I did research in  
5 that intervening period, yes.

6 Q. October to December of 2003 you were allowed  
7 to do research to complete your 48 months, correct?

8 A. Yes, yes.

9 Q. And that research was in the Radiology  
10 Department at Mass. General?

11 A. It was both Radiology Department as well the  
12 Psychology Department at Harvard.

13 Q. And the Psychology Department at Harvard?

14 A. Yes.

15 Q. And at that time you were funded by a  
16 fellowship, the Dupont-Warren Fellowship?

17 A. Yes.

18 Q. Okay. And was this arrangement, that is for  
19 the three months of October through December '03, an  
20 arrangement that you requested?

21 A. It was, I was in the research track  
22 Residency Program, and in the research track that  
23 is, I guess, the norm.

24 Q. But did you request to Dr. Mushrush that you

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1 A. No, she did not. Actually, she told me that  
2 Dr. Festin failed me.

3 Q. Did Dr. Alexander say that he voted to pass  
4 you?

5 A. He did not say anything, he said he only  
6 refused to discuss.

7 Q. And all this was in the spring of 2001?

8 A. It might be somewhere.

9 Q. Somewhere in that timeframe?

10 A. Yeah, because I think I got this e-mail in  
11 June, I think, from Dr. Mushrush, that is the first  
12 time that I learned that I failed the oral  
13 examination, and for the first time that I learned I  
14 failed a McLean rotation also, so after that I  
15 talked to her.

16 Q. Sorry, so after that you talked to who?

17 A. Dr. Mushrush and then Dr. Festin.

18 Q. Okay. Let's stay on the oral exam that you  
19 were told you failed, did Dr. Mushrush suggest that  
20 you retake the exam?

21 A. No.

22 Q. Is that you don't recall or are you saying  
23 she absolutely never did?

24 A. Absolutely never did. The first time I

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1 Residency Training Program that I was not going to  
2 know what is going to happen tomorrow without a  
3 warning that something is going to strike again.

4 Q. So this constant fear that you were under  
5 and the mental distress that you testified to, did  
6 you lose any time from the residency program during  
7 this period of time?

8 A. During the PGY II year, no.

9 Q. And did you seek the services of any medical  
10 professionals for this mental distress?

11 A. During PGY II, no.

12 Q. Did you, and I am talking about this period  
13 of time we are talking April through say July or  
14 August of '01, okay?

15 A. Okay.

16 Q. Did you expend any sums of money for  
17 medications or treatment relating to this mental  
18 distress?

19 A. No.

20 Q. It's true, isn't it, Doctor, that there was  
21 a woman who was stalking you around this period of  
22 time, correct?

23 A. No, not.

24 Q. Wasn't there a woman who was bothering you?

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1 A. Not that period of time.

2 Q. When?

3 A. I think it began when I was in PGY III. She  
4 was not stalking, I think stalking is a different  
5 connotation, actually. She was interested in me,  
6 and I told her that I'm not interested, but she kept  
7 asking me that maybe you can change your mind, but  
8 she never stalked me.

9 Q. And you shared this with Dr. Mushrush,  
10 correct?

11 A. Sorry?

12 Q. You shared this information with  
13 Dr. Mushrush?

14 A. No, I did not.

15 Q. Did Dr. Mushrush ever talk to you about the  
16 situation?

17 A. She did.

18 Q. And when was that?

19 A. That might have been when I was in PGY III.

20 Q. But had this started at all at any time  
21 towards the end of PGY II?

22 A. I don't exactly recall the time period, it  
23 might have been, but it was not very long-drawn  
24 process, I mean she was insisting that if I change

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1 my mind then let her know.

2 Q. What was the name of this person?

3 A. Dr. Savu.

4 Q. How do you spell it?

5 A. S-A-V-U.

6 Q. Did this cause you any mental distress?

7 A. No, not at all.

8 Q. None at all?

9 A. No.

10 Q. You didn't indicate to Dr. Mushrush that  
11 this was having an adverse effect on your blood  
12 pressure?

13 A. No, I never told her that.

14 Q. Not at all. Did she ever suggest to you  
15 that you might want to consider seeking a  
16 restraining order against this person?

17 A. I think she did.

18 Q. So you had a conversation with her?

19 A. I had a conversation, but she told me that I  
20 have heard that she is stalking you. I told her she  
21 is not stalking me, but she has been telling the  
22 residents also that she is interested in me, and I  
23 am not interested in her, and she asked me a couple  
24 of times that I am interested in you, and if you



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1 change your mind to let me know, but then  
2 Dr. Mushrush told me to give in writing that she is  
3 harassing you, and I told her she is not harassing  
4 me, she is interested in, but she told me.

5 Q. Go ahead, sorry.

6 A. Sorry, and so but she said give in writing  
7 that she is harassing you. I said, No, she is not  
8 harassing me, so I cannot give you in writing, and  
9 she said in that context, Okay, why don't you  
10 initiate, why don't you get a restraining order  
11 against her. I said, No, she is not harassing me, I  
12 am not harassed, she is just asking, and there is  
13 nothing wrong in asking if she is interested in me.  
14 So yeah, that was the conversation I had.

15 Q. And was this early in PGY III?

16 A. Towards the late, towards the end.

17 Q. Of the third year?

18 A. Yes.

19 Q. Or the second year?

20 A. No, third year.

21 Q. Now, who brought the subject up, did  
22 Dr. Mushrush approach you about it?

23 A. Yes, she did.

24 Q. And how did she know about it?

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1 A. I don't know, she said somebody told her.

2 Q. That you felt you were being stalked or  
3 harassed?

4 A. Yes, that's what she told me.

5 Q. Did she tell you who it was that went to  
6 her?

7 A. No, she did not.

8 Q. Just so we are clear, you didn't tell her  
9 that it was having a bad effect on your blood  
10 pressure?

11 A. Mm-hmm.

12 Q. You did not say that?

13 A. I did not say it, because it was not.

14 Q. Now, let's go back to the application for a  
15 full license, you had a conversation with an  
16 individual at the Board of Registration, and they  
17 told you that there was some negative information  
18 and that you had -- that Dr. Mushrush had to provide  
19 some further information. Do you know if she did  
20 provide some further information regarding the  
21 probation?

22 A. I don't know, but what I was told by the  
23 board is that she gave a bunch of documents to the  
24 board. I do not know what documents she gave to the

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1 board.

2 Q. I see. Did you request that you not have to  
3 meet with the official from Public Health Service,  
4 is that the official you mentioned?

5 A. I do not exactly remember the word what I  
6 mentioned, but the gist was I am ready to go for  
7 monitoring as recommended by Dr. Meyer, by  
8 Dr. Meyer, and I also told them that while doing the  
9 residency training it is impossible to do what the  
10 board wanted me to do for monitoring, and that  
11 included, of course, the meeting with Public Health.

12 Q. Did you put this in writing?

13 A. Yes.

14 Q. And do you have a copy of that letter?

15 A. Yes, yes.

16 Q. Now, you mentioned a Dr. Meyer, a Dr. Meyer  
17 who did a psychiatric evaluation of you?

18 A. Yes.

19 Q. Now, who is he and with whom was he  
20 affiliated at the time he did your evaluation?

21 A. He is affiliated with Harvard, but he  
22 evaluated me as a practitioner, I guess, psychiatric  
23 practitioner, not as a Harvard employee.

24 Q. And was his evaluation of you a psychiatric

1 evaluation of your mental health?

2 A. Yes.

3 Q. And why did he conduct such an evaluation?

4 A. Because board wanted him to do it, board  
5 told me to get it done from the psychiatric  
6 independent.

7 Q. The board told you to have a psychiatric  
8 exam?

9 A. Yes.

10 Q. And they told you that in May or June of  
11 2004?

12 A. Yes.

13 Q. And so did they identify the individual from  
14 whom you should receive this exam, or did you select  
15 Dr. Meyer?

16 A. They gave me three names, that I have to  
17 select one of those three.

18 Q. Okay. And you selected Dr. Meyer, correct?

19 A. Out of the three options that I have.

20 Q. Yes. Did you know Dr. Meyer?

21 A. No.

22 Q. How long did he evaluate you?

23 A. I have three or four meetings with him that  
24 are one hour long meeting.

1 Q. The last thing you said?

2 A. That was one hour long meetings,  
3 approximately one hour.

4 Q. So you had three or four meetings lasting an  
5 hour approximately a piece?

6 A. Right.

7 Q. And over what period of time did these  
8 meetings take place?

9 A. I think in the span of two or three months  
10 beginning July, I guess, June or July.

11 Q. June, July of '04?

12 A. Yes.

13 Q. Did you receive a copy or did you learn, I  
14 should say, of Dr. Meyer's evaluation?

15 A. Yes.

16 Q. And can you tell us what his, in summary  
17 fashion, what his evaluation of you was?

18 A. The psychiatric evaluation you mean?

19 Q. The what?

20 A. The results of the evaluation?

21 Q. Yeah, what was Dr. Meyer's conclusion with  
22 respect to evaluating you?

23 A. Yeah, his conclusion was that I am competent  
24 to practice medicine, and he wanted me to go for

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1 informal monitoring by Dr. Kirshner, who was my  
2 supervisor in the V.A., for a limited license.

3 Q. And why did he want you to go for the  
4 informal monitoring?

5 A. Because he talked to the people in the V.A.,  
6 particularly with Dr. Mushrush, and he told me that  
7 Dr. Mushrush told him that I have problem listening  
8 to others.

9 Q. Anything else?

10 A. I don't recall at this time.

11 Q. And did he say as a result of that he felt  
12 that you needed this monitoring?

13 A. Yes.

14 Q. Did he give you a written evaluation?

15 A. Yes.

16 Q. And do you have a copy of that written  
17 evaluation?

18 A. Yes.

19 Q. Are there any other requirements or  
20 suggestions -- let me withdraw that question.

21 Were there any other recommendations by  
22 Dr. Meyer with respect to monitoring?

23 A. For a limited license, I think that was the  
24 only requirement.

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1 Q. Were there any recommendations with respect  
2 to giving you a full license, monitoring  
3 recommendations?

4 A. Yes.

5 Q. And what were those?

6 A. He did not specify monitoring recommendation  
7 for full license.

8 Q. And Dr. Meyer, do you know if he consulted  
9 anyone else besides Dr. Mushrush?

10 A. Yes.

11 Q. Who else?

12 A. Dr. Festin, Dr. Kirshner, Dr. Mufson,  
13 Dr. Villa, and I think Dr. Bolton.

14 Q. The second to last one you named, would you  
15 spell that, please?

16 A. V-I-L-L-A.

17 Q. Do you know if -- did you say Dr. Bolton was  
18 one?

19 A. Yes, as far as I remember, yeah.

20 Q. And Dr. Mufson?

21 A. Yes.

22 Q. M-U-F-S-O-N?

23 A. Yes.

24 Q. Did he consult with Dr. Alexander?

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1 A. I don't remember.

2 Q. Dr. McCarley?

3 A. I don't remember.

4 Q. By the way, Dr. McCarley was the Director of  
5 Mental Health Services for the V.A., correct?

6 A. I don't know, but he was the head of the  
7 department, that I know, I knew he was the head of  
8 the department of psychiatric.

9 Q. Dr. Mushrush reported to him, correct?

10 A. Yes.

11 Q. So the chain of command was Dr. Mushrush  
12 reporting to Dr. McCarley?

13 A. Yes.

14 Q. So Dr. Meyer told you he had consulted with  
15 each of these physicians, these individuals you have  
16 just identified, correct?

17 A. Yes.

18 Q. Did he report to you what they said?

19 A. No.

20 Q. Did you ask?

21 A. I did.

22 Q. well, he reported to you what Dr. Mushrush  
23 had told him?

24 A. Yes.



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1 Q. Did he refuse to report to you what these  
2 others told him?

3 A. I asked, he said, I do not want to go on  
4 detail what each individual told me.

5 Q. Did he go into generalities?

6 A. Yes, he did.

7 Q. What were those generalities?

8 A. Generality, he said, he cited Dr. Mushrush,  
9 actually, he cited Dr. Mushrush, and then said there  
10 are other things you will get in the report.

11 Q. But did he identify that the others agreed  
12 or disagreed with Dr. Mushrush?

13 A. No, he did not.

14 Q. Did he tell you anything by way of  
15 generality what the other doctors said?

16 A. Not anything negative, what he told me was  
17 positive.

18 Q. Did he tell you that the others disagreed  
19 with Dr. Mushrush's observation that you had  
20 difficulty listening to others?

21 A. No, he did not.

22 Q. Did you ever see any notes of his interviews  
23 of those doctors?

24 A. No.

1 Q. And when did you resign from the residency  
2 program?

3 A. Most probably it was in March of '05,  
4 effective April 1st, I think.

5 Q. All right. So you had, prior to your  
6 resignation, gone to the board?

7 A. Yes.

8 Q. And sat down and said, I want to talk to you  
9 about this?

10 A. Yes.

11 Q. You've proposed a monitoring contract to me,  
12 and I want to make some modifications to it?

13 A. Yes.

14 Q. And here are the modifications, and they  
15 said we disagree?

16 A. They did not tell me anything, they said,  
17 okay, we will make a decision and let you know.

18 Q. So now this is February?

19 A. Or it could be March.

20 Q. And they said they would make a decision.  
21 When you met with them, did you say to them, Look,  
22 I've got this program, I've been given an extension  
23 to get this license, time is running out for me --

24 A. Yes.

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1 Q. -- when are you going to let me know, did  
2 you in words or substance say that to them?

3 A. Yes, in substance, not in words.

4 Q. And that was at this meeting in January of  
5 '05?

6 A. No, no, probably February or March.

7 Q. All right.

8 A. It could have been January, but probably  
9 February or March.

10 Q. All right. And did they tell you we'll let  
11 you know within two months, three months?

12 A. No.

13 Q. What did they say?

14 A. That was like talking to the wall, they  
15 cannot tell me anything.

16 Q. I am not interested in your characterizing  
17 what it was like.

18 A. Sorry.

19 Q. What did they say?

20 A. They did not say anything.

21 Q. They just sat there mute when you said, I  
22 need to know -- you need to let me finish my  
23 question.

24 A. Sorry.

1 Q. They sat there mute when you said to them,  
2 Look, I need to know because time has run out for me  
3 in this program, they sat there mute, is that what  
4 you are telling me?

5 A. They said, we will let you know, they  
6 refused to give me any time.

7 Q. All right. And did they say we will let you  
8 know within two months, six months, any time frame  
9 at all?

10 A. No.

11 Q. Did you say, well, when are you going to let  
12 me know, this has been dragging on for a long time  
13 and my future is at stake?

14 A. In substance, yes.

15 Q. And they still said, we'll let you know?

16 A. Yes.

17 Q. And so a month later you resigned because  
18 you hadn't heard anything?

19 A. Yes, actually unofficially I heard that the  
20 board is not accepting my letter of modification, my  
21 selection for modification.

22 Q. Okay, and when did you unofficially hear?

23 A. Two days after I met with the board.

24 Q. How did you unofficially hear?

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1 A. My attorney, I had an attorney at that time.

2 Q. Who was that?

3 A. Mr. Paul Cirel.

4 Q. The last name is what?

5 A. C-I-R-E-L.

6 Q. C-I-R-E-L, Paul?

7 A. Yes.

8 Q. And he was representing you through this  
9 process?

10 A. Yes.

11 Q. And he communicated to you two days after  
12 your meeting, did he meet with you up at the board?

13 A. Yes.

14 Q. So he went with you and pled your case?

15 A. Yes.

16 Q. And he tried to convince the board to modify  
17 the monitoring contract, correct?

18 A. Yes.

19 Q. And two days later --

20 A. Maybe three.

21 Q. Well, two or three days later they  
22 communicated back to him that they were not going to  
23 accept your proposed changes, correct?

24 A. Yes.

1 Q. And you had an option, you could either  
2 accept the monitoring contract or they would deny  
3 the license, correct?

4 A. I don't know if that is correct. What I was  
5 told by Mr. Cirel is that board -- when he talked to  
6 people in the board, they were not taking to your  
7 proposal, they are not taking to your proposal, and  
8 if you sign the monitoring contract, then they will  
9 consider your limited license application, and if  
10 you do not sign then they will not consider your  
11 limited license application, and the full license  
12 application is off the table, they are not even  
13 talking about that, and there is a possibility that,  
14 if I do not sign the monitoring contract, there is a  
15 possibility that they would reject my application,  
16 reject the licensing, and they will deny my license,  
17 actually, and once they deny, then I will have  
18 difficulty getting a license anywhere in my life.

19 Q. So did you, nonetheless, refuse to sign the  
20 monitoring contract?

21 A. I did not receive any communication from the  
22 board.

23 Q. Well, my question to you, sir, is did you or  
24 did you not sign the monitoring contract proposed to

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1 you by the Board of Registration?

2 A. I have not signed it because the board has  
3 not told me officially if they are accepting my  
4 modification or not. What I was told is that I will  
5 get a letter from the board telling me that they are  
6 accepting my modification or not, and I have not  
7 received that letter.

8 Q. I see. But you heard unofficially --

9 A. Yes.

10 Q. -- that they were not?

11 A. Yes.

12 Q. And how long ago was that unofficial  
13 communication?

14 A. That was in February or March of '05.

15 Q. So we are now a year and three months past  
16 that unofficial communication?

17 A. Yes.

18 Q. And you are not signing the monitoring  
19 contract proposed to you because you haven't heard  
20 officially from the Board of Registration?

21 A. Yes.

22 Q. Have you asked them for an official letter?

23 A. I did not, because I was also told that the  
24 board may reject my license or deny my application,

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1 Q. Most of the time?

2 A. Mm-hmm.

3 Q. You have to answer yes.

4 A. Yes.

5 Q. Does most of the time mean 51 percent or 95  
6 percent?

7 A. I do not have a count, but.

8 Q. It's your words, I am asking you to give me  
9 a sense, what does most mean?

10 A. Most means most.

11 Q. Majority of the time?

12 A. Yes.

13 Q. Now, let me -- we will come back to  
14 Dr. Mushrush's comments in a moment, but I have some  
15 questions to ask you about some other individuals,  
16 and let me begin by asking you about the following  
17 people, and my question that will relate to each of  
18 these people is did any of the following people ever  
19 say anything to you or in your presence that was  
20 derogatory toward people of Indian national origin:  
21 Dr. Fay Festin?

22 A. No.

23 Q. Dr. McCarley?

24 A. No.



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1 Q. Dr. Sarah Bolton?

2 A. No.

3 Q. Dr. Sonja Krista?

4 A. I don't know who Dr. Sonja Krista is.

5 Q. Dr. Mufson?

6 A. No.

7 Q. Dr. Tishler?

8 A. No, I did not have words with Dr. Tishler, I  
9 think I talked to him only once.

10 Q. My question, though, is did he say anything  
11 that, in your presence, to you in your presence or  
12 that came to your attention that was derogatory  
13 towards people of Indian national origin?

14 A. No.

15 Q. Dr. Nackie?

16 A. I don't know Dr. Nackie.

17 Q. Dr. Chang?

18 A. Dr. Chang, no.

19 Q. Dr. Alexander?

20 A. Dr. Alexander did make, did make a remark.

21 Q. What was the remark?

22 A. I don't remember the wording, actually, but  
23 the tone was that Indian doctors are worthless.

24 Q. The tone of it, Indian doctors are what?